

Multiculturalism and Minority Rights in India:

Interface between Theory and Practice

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Abstract

Multiculturalism's entry into the theoretical realm has helped many societies to solve the problems and conflicts on the basis of religion, language, and ethnicity. Many countries are making an effort to protect the rights of minorities on multicultural lines. India, being one of the plural countries, has several provisions in its Constitution to protect the rights of the minorities. Certain similarities between prescriptions of multiculturalism and provisions on rights of minorities in the Indian Constitution have led to consider Indian Constitution as multicultural document. Such considerations can be assessed by looking at the interface between ideas on protection of minority rights and practice of the same in country's more than six decades of democratic life.

Key Words: *Pluralism, Minorities, Cultural Rights, Self-governing Rights, Internal Migration, Political Representation, Public Agenda.*

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INTRODUCTION

Minority communities are demanding greater recognition of their distinctive identities and greater freedom and opportunity to preserve and cherish their unique cultural practices. Claims of the many minorities have been gaining wider prominence in many parts of the world. In response to these demands, new and convincing mechanisms are being tried and adopted in many countries. In this direction it can be said that the theory of multiculturalism has come to the theoretical realm as

defender of minorities rights and consequently as a solution to cultural conflicts all over the world on the basis of religion, language and ethnicity.

India is one of the democratic states in which society is pluralistic in nature. Existence of different ethnic groups, religions, languages and caste divisions within Hinduism makes India a plural society. As far as religious composition is concerned, it is predominantly inhabited by Hindus who are spread regionally all over India. Within Hinduism different philosophical sub-sects, linguistic groups and, above all, thousands of castes can be seen. There are philosophical sub-sects such as *Vaishnavism*, *Shaivism*, *Veershaivism* (see, Bali, 2008:233-

267) in Hindu religion. Linguistically there are Tamil, Gujarati, Kannada, Marathi, Bengali and other speaking groups. Presence of 22 officially recognised national languages and more than 1162 non-scheduled languages and dialects makes India a linguistically diverse society (Sengupta, 2009:153).

Indian society constitutes large proportion of religious minority communities which include Muslims, Sikhs, Parsis, Christians, Buddhists and Jains. All these minority communities are also not free from internal pluralism. One could observe hierarchical caste groups among some of these groups (Ahmad and Chakravarti, 1981:55-60). Linguistically also these are diverse in the sense that there are Urdu, Tamil, Bengali, Konkani and Malayalam speaking Muslims and Christians. Indian society has maintained plural character since centuries together and has a long history of people of different faiths living together (Mahajan, 2006:168). But the question is to what extent this existence has facilitated minority groups' aspiration for greater public recognition of their distinctive identities and greater freedom and opportunity to preserve and cherish their unique cultural practices? Such questions emerge because even before independence there was assertion of identities on the part of majority and minority communities. Indian society has had the presence of cultural nationalist movement from pre-independence time. In this context, it is necessary to understand the status of minorities in India in its democratic life since 1947.

Multiculturalism propounds three categories of rights for minorities which they can claim in nation-state (Kymlicka, 1995:27). Those three rights are Self-Government Rights, Cultural Rights and Special Representation Rights. There are number of provisions in the Indian Constitution to protect minority cultural rights. 'India was one of the first countries to give constitutional recognition to the minority communities' (Mahajan 1998:83). These are almost similar to the cultural rights as envisaged by multiculturalism. The present paper discusses to what extent constitutional provisions

meant for minorities are in consonance with multiculturalism, and how these provisions are protected by the Indian polity. This paper also discusses migrant minorities who owe their status to internal migration.

SELF-GOVERNMENT RIGHTS

These rights have territorial implication and are sought by communities that are concentrated in specific region or by those who have occupied a given territory over long period of time (Mahajan, 2002:106). 'With governing powers they, can take decisions on key matters such as education, immigration, language, land and resource use, family law, cultural rites, and administrative structure'(Ibid:107). To certain extent this kind of self-govt rights are there in India for certain regions. The example of Jammu and Kashmir can be given in this regard (Ibid: 109). Article 370, assures Jammu & Kashmir a very special autonomous status in the Indian constitutional scheme (Editorial, Frontline, 2000). Because of the special circumstances in which the former princely State was able to accede to India, 'certain limitations were placed by the Constitution itself on the Centre's powers *vis-a-vis* Jammu & Kashmir' (Ibid). According to this order the jurisdiction of Parliament was extended 'making it competent to cover all areas in Union List' (Swami, July, 1999).

Autonomy for certain regions in India is in serious problem and autonomy for these areas has been opposed by certain political forces (Swami, July, 2000). There was a demand from the Bharatiya Janata Party (BJP) to struck down Article 370 in order to bring the state of Jammu and Kashmir (JK) on par with other states of Indian union governed by the provisions of part 6th of the Constitution (Basu, 2011:271).

Tribal communities in India are distinct ethnic minorities who have been given Constitutional protection to protect and preserve their identity. Architects of Indian Constitution have done justice in this regard by providing separate provisions. These provisions are similar to self-governing rights of multiculturalism. There are special provisions for the administration of certain areas called as scheduled areas and tribal areas, in Indian Constitution. The 5th schedule of the Constitution deals with the administration and

control of scheduled areas. One important feature associated with the 5th schedule is that of constitution of Tribes Advisory Councils. They 'are to be constituted to give advice on such matters as welfare and advancement of the scheduled tribes in the states as may be referred to them by the Governor.' (Ibid: 293) Further, the Governor also has the authority 'to make regulations to prohibit or restrict the transfer of land by, or among members of the scheduled tribes, regulate the allotment of land, and regulate the business of money lending. All such regulations made by the Governor must have the assent of the President' (Ibid: 293-294).

The 6th schedule of the Constitution deals with the tribal areas in Assam, Meghalaya, Tripura and Mizoram. According to this Schedule these areas get autonomous districts status. They are to be administered as autonomous districts and are not, 'outside the executive authority of the state concerned but provision is made for the creation of District Councils and Regional Councils for the exercise of certain legislative and judicial functions. These Councils are primarily representative bodies and they have got the power of law-making in certain specified fields such as management of a forest other than a reserved forest, inheritance of property, marriage and social customs and the Governor may also confer upon these Councils the power to try certain suits or offences. These Councils have also the power to assess and collect land revenue and to impose certain specified taxes. The laws made by the councils shall have, however, no effect unless assented to by the Governor' (Ibid:294).

The people of these Scheduled and tribal areas have lost autonomy over their regions in the sense that their areas have been converted into areas of mining (Padel&Das, 2010 and Padel, 2000). Number of developmental projects have come up, large scale displacement is taking place, and above all those who protest any imposition of unwanted development are branded as either Naxals or terrorists. Some parts in north-eastern states in which there is large tribal population are now under the Armed Forces (Special Powers) Act of 1958 (AFSPA). It is observed that this Act is, 'one of the more draconian legislations that the Indian Parliament has passed' (Human Rights Documentation Centre). This Act provides security forces 'unrestricted and unaccounted power to carry out their operations, once an area is declared disturbed. Even a non-commissioned officer is granted the right to shoot or kill based on mere suspicion that it is necessary to do so in order to "main-tain the public order"' (Ibid).

CULTURAL RIGHTS

Minorities demand cultural rights in almost every liberal democratic country. These cultural rights are sought in the form of exemptions, symbolic claims and claims for recognition (Mahajan, 2002:94-106). Many of cultural rights which are provided to minorities in India are similar to rights envisaged for minorities in multicultural theory. The Indian Constitution is considered as multicultural document because it provides a number of measures for the recognition and accommodation of the country's diversity (Bhattacharya, 2003:151-152). Article 29(1) of the Indian Constitution ensures the fundamental right to any section of the citizens having a distinct language, script or culture of its own to preserve the same (Pandey, 2005:313). This suggests that if there is any cultural community having distinct language, script or culture of its own, the State cannot make any laws to impose its majority language, script, culture and confiscate the right of cultural community. Both religious and linguistic minorities have claim to this right.

Article 350A of the Constitution directs, 'every state to provide adequate facilities for instruction in the mothertongue at the primary stage of education to children belonging to linguistic minority groups and empowers the President to issue proper direction to any state in this behalf' (Basu, 2011:400). Article 350B states that a, 'special officer for linguistic minorities shall be appointed by the President to investigate all matters relating to the safeguards provided for linguistic minorities under the constitution and report the President' (Ibid). The Preamble of the Indian Constitution states that India is a secular state. As a secular state India is supposed to observe of neutrality and impartiality towards all religions (Fadia, B.L2004:126). Article 25 ensures to all citizens the freedom of Conscience and the right to freely profess, practice and propagate religion. (Ibid). According to this provision, all religious minorities in India have freedom of conscience and the right to freely profess, practice and propagate their own religion. Article 347 states that if there is demand on the part of a substantial proportion of the population of a state desiring the use of any language spoken by them to be recognised by that state, President may direct that such language shall also be officially recognised in that state for such purpose as he may specify (Pandey, 2005:670).

Article 30 of the Constitution provides cultural and educational rights to both religious and linguistic minorities. Article 30(1) ensures right to all religious and linguistic minorities to establish

and administer educational institutions of their choice (Basu, 2011:401). Article 30(2) states that the, 'state shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language' (Ibid).

Multiculturalism's understanding is that it is essential for the State to promote minority culture and provide some space in the public arena. Generally financial and other forms of support are essential for sustaining cultural institutions such as museums, theatres and community newspapers. In India museums, theatres and newspapers relating to minority culture are supported and encouraged by both central government and many state governments. According to multiculturalism symbolic claims, means how minority communities are represented in the public arena and in cultural symbols of state like the national anthem, declared public holidays and even the name of the State (Mahajan, 2002:103). The Indian national anthem is inclusive in the sense that it talks about celebration of cultural diversity of Indian society. There are number of holidays for minority community to celebrate their festivals.

National Commission for Minorities is another institutional mechanism to safeguard the rights of minorities. This commission is required to perform a number of functions to protect the rights and to look into matters of welfare and development of minorities. National Commission for Minorities is not free from any criticism and opposition for its existence. Setting up of this Commission was envisaged in 1978 (Ibid) when Janata Party was in power. Recently there has been concern about threat to minorities' right to life and property. Still there is concern on the part of minority that the government is not handling the attacks on minority with necessary actions. The government needs to do a lot in ensuring their physical security, and protecting their personal property. It is rightly observed that the, 'real challenge before secular democracy in India is to create a political and institutional environment for the protection of rights of diverse communities and social groups under the overall umbrella of national unity' (Bambhri, 2008:76).

The functioning of secular democracy can be judged by taking into account the balance sheet of it in protecting the minority rights and its role as a neutral umpire between majority and minority conflicts. In 1984 many innocent Sikhs were killed by the majority community in northern India following the assassination of Indira Gandhi. The issue is still before courts of law.

Another attack on minorities was the Gujarat riot that took place in the year 2002. This riot witnessed large scale communal violence against minorities.

The socio-economic condition of muslim minorities in India is not satisfactory compared to other minority group like Jains, Sikhs, Parsis, Buddhists and Christians. The socio-economic condition of this community has recently been highlighted by Sachar Committee Report (Government of India, 2006). This committee report has ‘established that the socio-economic condition of the Muslim communities is abysmally low, that is just above that of the *Dalits*’ (Alam, 2010:53).

SPECIAL REPRESENTATION RIGHTS

Multiculturalism propounds special representation rights for minorities to ensure equal citizenship and genuine inclusion in the political system. Understanding of multiculturalism is that if diverse communities get an opportunity to set public agenda they enrich policies by contributing their distinctive cultural perspectives and experiences (Mahajan, 2002:110). The multicultural idea of ensuring diverse communities to set public agenda implies that minorities in India need representation in Parliament and state assemblies. In India minority’s representation in State assemblies and Parliament is low compared with the size of their population. The Indian Constitution has not given as such special political reservation to minorities but Indian politics has always facilitated and nurtured minority presence in governmental bodies.

MIGRANT MINORITIES

The imbalanced economic development has caused internal migration in the country. People from backward regions migrate to developed regions within the country in search of livelihood. This migration within the country is not only because of push factor (regional economic backwardness) but also because of pull factor (demand for labour). The presence of migrant groups in different states in the country has generated conflict among different linguistic groups. Migrant people become minorities in the states in

which they temporarily or permanently reside. These migrant people are perceived as people who have snatched the opportunities of local people and as people responsible for the destruction of the local culture. The anxiety and insecurity on the part of local people will generally be exploited by some political groups aspiring for power or any selfish interest. Though there is clear provision in the Indian Constitution that any citizen of the country can move, reside and settle in any part of the country, it is consistently being opposed by many political formations. These political formations are exhibiting animosity to such movement on the basis of their own logic and reasons.

There are enough examples of migrant minorities being attacked by local political and cultural groups. The *Shivsena* and presently its

S) have the record of *Shivsena* in Maharashtra

targeting non-maharashtrian people in Maharashtra. *Shivsena* was in forefront in targeting south Indians in its early years of existence (Katzenstien, 1973:388). Now, there are incidents of MNS staging protests against non-Maharashtrians. The reason for such actions was that these people may corner the job market within the state of Maharashtra. (Bavadam, 2008). Migrant people in the states of Karnataka and Tamilnadu do also face problems. Whenever there is problem of Cauvery river water sharing, there are possibilities of Tamil minorities becoming target in Karnataka and Kannada minorities becoming target in Tamil Nadu. Minority group formation due to migration poses certain serious questions. Should they be considered as minorities or not? If there is a violation of their human rights, should it be considered as just law and order problem or constitutional problem? Because of presence of such problems multicultural debate in India has to address them adequately.

India has opposed the discrimination and ill-treatment of Indians abroad especially in countries such as England and Australia. Many political parties and political leaders have joined the bandwagon in criticising the racial attacks on Indians abroad. The problem of migration of Indians to foreign countries and internal migration within the country has been intelligently utilised by some political leaders. One glaring example in this regard is *Shivsena* which criticised attacks on Indians in Australia, (The Hindu, Jan, 14th 2010) has always opposed to non-marathi migrant Indians (Indian Express, Mar 6th, 2010). It is necessary to debate problems of such people who become minorities because of migration to other places in the same country. The issue of 'son of the soil' and migrants or outsiders can well be discussed under the purview of multiculturalism (Rodrigues, 2002:127).

DISCUSSION

Multicultural solution of self-governing rights for some minorities are indeed good if any minority which demands such right is ready to accept and remain within the framework of sovereignty of nationstate in which it resides., otherwise the main purpose of granting such right would be undesirable. It would, 'pose a challenge to the liberal notion of nation/state, i.e. it may lead to secessionist movements' (Talukadar, 2008:101). Many states have expressed anxiety because of the presence of secessionist tendencies on the part of frontal organisations which talk about rights of minorities. Countries such as Srilanka are facing this fear with respect Tamil problem. India has expressed fears about the safety of Tamil minorities in Srilanka. Successive governments have conveyed this fear that more-self governing power may further facilitate separatism on the part of minorities which are concentrated in particular regions. India has already experienced and has been experiencing such separatist tendencies. There was demand by Sikh groups for separate nation Khalistan (Kohli, 1998:20). In northeast region of the country many separatist organisations are expressing similar demands. There is no solution in multiculturalism for such anxieties. The solution of multiculturalism for cultural conflicts is ensuing radical thoughts enhancing the quality of democracy in a pluralistic society. But some segments of plural societies which are concentrated in certain geographical regions demand separate states. In such situations multiculturalism is not enough and convincing mainstream segments of the society in the interest of protecting Sovereignty is the solution in the longrun. The rights which have been provided in the Constitution for minorities have to be protected and there should be consistent effort on the part of the state and its agencies to facilitate the rights. Unfortunately rights of minorities are more on paper than in practice. There are enough debates to consider India as a perfect multicultural society but the question remains to be answered is to what extent it has been realised. Any further debates on such rights should consider the way they are protected in a democracy. Another issue that needs to be debated as part of multicultural rights in India is that of internal migrant minorities. There have been many arguments regarding

different types of minorities in India but less has been said about such people who happens to become minorities because of internal migration. The debates and discussions on all types of minorities would help in understanding the quality of the democracy in India.

REFERENCES

1. Ahmad, S. Shamim and Chakravarti, A.K (1981), ‘ Some Regional Characteristics of Muslim Caste Systems in India’, *GeoJournal*, Vol. 5, No. 1, Southern Asia — Geography of Contrast, pp. 55-60
2. Alam, Javed (2010), ‘ A Long-term View of Contemporary Muslim Situation in India’, in Rita Manchanda (ed) *States in Conflict With Their Minorities: Challenges to Minority Rights in South Asia* (New Delhi, Sage Publications, pp. 42-68.
3. Bali, Arun P. (2008), ‘Organization of Virasaiva Movement: An Analysis in the Sect-Church Framework’ in M.S.A. Rao (ed), *Social Movements in India: Studies in Peasant, Backward Classes, Sectarian, Tribal and Women’s Movements*, New Delhi: Manohar Publishers, pp. 233-267.
4. Basu, Durga Das. (2011), *Introduction to the Constitution of India*, Gurgaon, India: LexisNexis Butterworths Wadhwa Nagpur.
5. Bavadam, Lyla. (2008), ‘Hate campaign’, *Frontline*, Vol. 25, Issue. 23, Nov. 08- 21, <http://frontlineonnet.com/fl2523/stories/20081121252302400.htm>
6. Bhambhri, Chander Prakash. (2008), *Democracy in India*, New Delhi: National Book Trust of India.
7. Bhattacharya, Harihar (2003), ‘Multiculturalism in Contemporary India’, *International Journal on Multicultural Societies*, 5(2), pp. 151-164.
8. Editorial. (2000), ‘Autonomy for Jammu and Kashmir’, *Frontline*, 17(14) July 08–21, <http://www.frontline.in/static/html/fl1714/17140080.htm>.
9. Fadia, B.L (2004), *Indian Government and Politics*, Agra: Sahitya Bhavan Publications.
10. Government of India, (2006), .Prime Minister’s High Level Committee, *A report: Social, Economic and Educational Status of the Muslim Community of India*, http://www.minorityaffairs.gov.in/sites/upload_files/moma/files/pdfs/sachar_comm.pdf
11. Human Rights Documentation Centre, South Asia, ‘Armed Forces Special Powers Act: A Study in National Security tyranny’ http://www.hrdc.net/sahrdc/resources/armed_forces.htm
12. India Today, (2012), ‘Delhi Police kept eyes “closed” during 1984 anti-Sikh riots: CBI’, March 31st, indiatoday.intoday.in/story/1984-anti-sikh-riots-delhipolice-cbi/1/182537.html
13. Indian Express, (2010), ‘Thackeray targets Maharashtra Governor over ‘Mumbai for all’ remark’ Saturday 6th March, archive.indianexpress.com/news/thackeraytargets-maharashtra-governor-over-mumbai-for-all-remark/587598/

14. Jaffrelot, Christophe. (2008), 'Hindu Nationalism and Democracy', in Niraja Gopal Jayal (ed), *Democracy in India*, New Delhi: Oxford, 2008, pp.509- 534.
15. Katzenstein, Mary F. (1973), 'Origins of Nativism: The Emergence of Shiv Sena in Bombay', *Asian Survey*, Vol.13, No.4, April, pp.386-399.
16. Kohli, Atul (1998), 'Can Democracies Accommodate Ethnic Nationalism? The Rise and Decline of Self-Determination Movements in India' in Amrita Basu and Atul Kohli (eds), *Community Conflicts and the State in India*, New Delhi: Oxford Publishers, pp.7-32
17. Kymlicka, Will. (1995), *Multicultural Citizenship: A Liberal Theory of Minority Rights*, New York: Oxford University Press.
18. Mahajan, Gurpreet. (1998), *Identities & Rights: Aspects of Liberal Democracy in India*, New Delhi: Oxford University Press.
19. Mahajan, Gurpreet. (2002) *The Multicultural Path: Issues of Diversity and Discrimination in Democracy*, New Delhi: Sage Publishers.
20. Mahajan, Gurpreet. (2006), 'From Community to Nation: The Making of the Majority-Minority Framework' in V.R.Mehta and Thomas Pantham (ed), *Political Ideas in Modern India: Thematic Exploration*, in D.P.Chattopadhyaya (ed) *History of Science, Philosophy and Culture in Indian Civilization*, New Delhi: Sage Publications, pp.167-185.
21. National Commission for Minorities, Genesis of, [http://ncm.nic.in/ Genesis_of_NCM.html](http://ncm.nic.in/Genesis_of_NCM.html)
22. Padel, Felix. (2000). *Sacrificing People: Invasions of a Tribal Landscape*, New Delhi: Orient Blackswan.
23. Padel, Felix and Samarendra Das. (2010) *Out of This Earth: East India Adivasis and the Aluminum Cartel*, New Delhi: Orient Blackswan.
24. Pandey J.N. (2005), *Constitutional law of India*, Allahabad: Central Law Agency.
25. Puniyani, Ram. (2006) 'Minority Appeasement', *Plural India*, 7th April, <http://www.pluralindia.com/issues-in-secular-politics.php?id=116>
26. Rodrigues, Velerian. (2002), 'Is There a Case for Multiculturalism?', in Kushal Deb (ed), *Mapping Multiculturalism*, New Delhi: Rawat Publications, 2002, pp. 106-131.
27. Saroor, Hasan. (2011), 'Manmohan Singh's apology for Sikh riots a Gandhian moment of a moral clarity, says 2005 cable', *The Hindu*, April 22, www.thehindu.com/news/the-india-cables/manmohan-singhs-apologyfor-antisikh-riots-a-gandhian-moment-of-moral-clarity-says-2005-cable/article171562-.ece
28. Sengupta, Papia. (2009), 'Linguistic Diversity and Economic Disparity: An Issue for Multiculturalism in India', *The International Journal of Diversity*

in Organization, Communities and Nations, 9(1), pp.147-164, [http:// www.Diversity-Journal.com](http://www.Diversity-Journal.com)

29. Swami, Praveen.(1999), 'Towards greater autonomy', *Frontline*, Vol.16-Issue 15, July 17-30, [www.frontline.in/static/html.fl16150360.htm](http://www.frontline.in/static/html/fl16150360.htm)

30. Swami, Praveen . (2000), 'The Autonomy Demand', *Frontline*, Volume 17- Issue 14, July 08–21, <http://www.frontline.in/static/html/fl1714/17140040.htm>.

31. Talukdar,Papia Sengupta.(2008), 'Rights' in Rajeev Bhargava and Alok Acharya (eds), *Political Theory: An Introduction*, New Delhi: Pearson, pp.88- 105.

32. Thaindian News,(2011), 'Call to prosecute Congress leaders for anti-Sikh riots', April 26, www.thaindian.com/newsportal.uncategorized/call-to-prosecutecongress-leaders-for-anti-sikh-riots-lead_100530201.html

33. The Hindu, (2010), 'Congress Dismisses Thackeray's stand on Australia', January 14th. <http://www.thehindu.com/news/article80476.ece>.